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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,639	07/10/2006	Petrus Martinus Leonardus Beks	F3332(C)	1939

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EXAMINER

TAPOLCAI, WILLIAM E

ART UNIT	PAPER NUMBER
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3744

NOTIFICATION DATE	DELIVERY MODE
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04/20/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentgroupus@unilever.com

Office Action Summary	Application No. 10/550,639	Applicant(s) BEKS ET AL.	
	Examiner WILLIAM E. TAPOLCAI	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,671,319 to Bortz in view of U.S. Patent No. 6,185,951 to Lane et al. Bortz discloses the claimed invention of a display and dispensing assembly comprising a freezing cabinet A, a housing located externally of the freezer cabinet and a chamber C, D, and E within the housing for storing and dispensing products. The products are stored at a temperature which is clearly disclosed as being higher than the temperature of the freezer cabinet. See, for example, column 2, lines 13-34, which states that the temperatures of the freezer cabinet A can range between 0 and 5 degrees F, while the temperatures in the housing can range between 33 and 38 degrees F. Bortz further discloses the first heat transfer means 18 within the housing, as well as a second heat transfer means surrounding the container 25 and is located inside the freezer cabinet. Thus, Bortz discloses the claimed invention except for the means for circulating a heat transfer fluid through the first and second heat transfer means, and for the tubes passing over a side of the freezer cabinet. Lane et al teaches a display and dispensing assembly which includes a first heat transfer means located outside the display space, a second heat transfer means 12 or 15 located inside the display space, and means including a pump 18 for circulating a heat transfer fluid between the first and second heat transfer means. Thus, it would be obvious to provide Bortz with means

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including a pump for circulating a secondary heat transfer fluid through the first and second heat transfer means, in view of Lane et al, to yield the predictable result of accurately maintaining the separate temperatures in the two zones. The recitation of the assembly being removable is considered to be a mere functional limitation and not a positive structural limitation. Furthermore, the assembly of Lane et al is considered to inherently be removable. Also, the location of the first and second heat transfer means being connected by tubes that pass over a side of the freezer cabinet is considered to be a matter of obvious design choice to one of ordinary skill in the art. One of ordinary skill in the refrigeration art would be able to locate the tubes in any configuration desired, without undue experimentation. No criticality or unexpected results are seen or have been disclosed for the recitation of the connecting tubes being located over a side of the cabinet. The recited temperatures are also considered to be matters of obvious choice to one of ordinary skill in the refrigeration art, as any desired temperature can be achieved by the skilled operation of the refrigeration system.

3. Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bortz in view of Lane et al as applied to claim 1 above, and further in view of U.S. Patent No. 5,524,453 to James, newly cited. Bortz in view of Lane et al discloses the claimed invention except for the second heat transfer means comprising a case of pipework around a case of a thermally conductive eutectic material. James teaches a refrigeration system comprising a first system 3, 14-17, a second system 10-12, and a case that includes a eutectic material, as taught in column 3, lines 16-19. Thus, it would be obvious to modify Bortz in view of Lane et al with a eutectic material, in view of James,

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to yield the predictable result of preventing contamination of the fluids in the two systems.

4. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

5. With respect to the limitation of the connecting tubes passing over a side wall of the freezer cabinet, this is seen not only as a matter of obvious choice as far as where the tubes are located. It is also considered to be a step backward in the art, as far as the tubes being exposed to damage from users accessing the display case.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM E. TAPOLCAI whose telephone number is (571)272-4814. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on (571)272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WILLIAM E. TAPOLCAI/
Primary Examiner, Art Unit 3744

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April 15, 2010